IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL, CIVIL JURISDICTION

WRIT PETITION NO.2590 OF 2005

Engineering & Metal Workers Union..Petitioner

Vs.

Hindustan Platinum Employees

Union & Ors. ...Respondents

Ms. Gayatri Singh, for the Petitioner
Mr. A.V. Bukhari with Mr. Kishore Shetty, for
respondent No.1.
Mr. Shailesh Pathak for respondent No.2.

CORAM: F.I. REBELLO &
ANOOP V. MOHTA, JJ.
DATE: 16TH OCTOBER,2006

P.C.

. The respondent No.1 Union had applied for recognition under Section 11 of the M..R.T.U. & P.U.L.P. Act. On a notice being served the petitioner union opposed the application on the ground that they had majority of membership. The application was filed in July. The relevant period would, therefore, be January to June. The relevant year is 2001. The Investigation Officer gave his report on the enquiry conducted before the Industrial Court. 77 employees who were found to be common to both the petitioner and respondent were examined on behalf of respondent No.1. In the evidence they held that they were members of respondent No.1. The employees strength in the establishment was 167. Apart from the 77 members the Investigation Officer further held that the respondent No.1 had 16 members

whose membership was not common and as such valid. Based on these facts the learned Industrial Court came to the conclusion that the Respondent No.1 herein had the majority and met with other requirements as set out under Section 11 and consequently allowed the Application. It is this order which is the subject matter of the present petition.

3. On behalf of the petitioner learned Counsel for the petitioners submits that the witnesses did not dispose as to for which period they were members of respondent No.1. The fact remains that the dispute regarding common membership was for the relevant period. They were examined by respondent No.1 on that basis and cross examined. The inference, therefore, drawn by the learned Industrial Court that they are members of respondent NO.1 on the relevant period being a finding of fact based on material cannot be faulted. In the light of that we find no cause for interference. Petition dismissed.

(F.I. REBELLO, J)

(ANOOP V. MOHTA,J).